

## **REMARKS**

Entry of the above amendments in reconsideration of this application are respectfully requested. Upon entry of the amendments, this application will contain claims 36-60 pending and under consideration. This submission is being made to accompany a Request for Continued Examination filed simultaneously herewith. It is believed that the above amendments and the following remarks address all outstanding rejections. Thus, allowance of the application is solicited.

Claim 61 stands rejected under 35 USC § 112 first paragraph. In the rejection it is asserted that the specification does not provide adequate written description to support claim 61. It is believed that this issue has been mooted by the deletion of claim 61.

Claims 54-61 stand rejected under 35 USC § 112, first paragraph, based upon an assertion that the specification does not contain written description adequate to support the claims. In response, it is believed that this rejection has been rendered moot due to the amendments made to claim 54. In particular, claim 54 has been amended to specify that the multi-layer bioabsorbable collagenous biomaterial includes "multiple collagenous layer segments that are bonded to one another". A variety of suitable collagenous layer segments are illustrated in the current specification, and it is believed that claim 54 and its remaining dependent claims 55-60 (claim 61 has been canceled) are fully supported by the written description provided in the present specification. Accordingly, reconsideration and withdrawal of this rejection are solicited.

Claims 54-61 stand rejected under 35 USC § 112, based upon an assertion that the specification does not fully enable the claims. In response, it is noted that claim 54 has been amended so as to moot this rejection. In particular, claim 54 has been amended so as to require that the multi-layer bioabsorbable collagenous biomaterial include "multiple collagenous layer segments that are bonded to one another". A variety of suitable such layer segments are described in the application, and it is not seen how one of ordinary skill in the art would have any undue difficulty in preparing a wide variety of constructs in accordance with the invention of claim 54 as amended. As such, it is believed that claim 54 and its dependent claims 55-60 are fully supported by the specification from the standpoint of enablement, and withdrawal of this rejection is solicited.

Claims 36-45 and 53 stand rejected under 35 USC § 103(a) over a combination of Voytik-Harbin et al. taken with Stinson. For the following reasons, reconsideration and withdrawal of this rejection are solicited.

As amended, claim 36 requires an injectable chemotherapeutic composition that includes "a radiopaque marker component consisting essentially of a radiopaque powder material". To the contrary, the Stinson reference, which was relied upon for teaching a radiopaque substance, teaches specifically away from this feature of the claim. Particularly, the Stinson reference teaches radiopaque markers that contain a radiopaque powder substance incorporated in a bioabsorbable polymer material and formed into threads or other similar bodies, which are then incorporated into implants. The Stinson reference taken as a whole does not teach the use essentially of a radiopaque powder material as the radiopaque marker,

much less in an overall combination as set forth in claim 36. As such, it is submitted that independent claim 36 and claims 37-44 dependent thereon are patentably distinct from the combination of Voytik-Harbin and Stinson.


Likewise, independent claim 45 as amended requires "a radiopaque marker received on the surface of the bioabsorbable collagenous biomaterial, said radiopaque marker consisting essentially of a radiopaque powder substance, wherein powder particles of said radiopaque powder substance are in contact with the surface of the bioabsorbable collagenous biomaterial". Claim 53 depends upon claim 45 and therefore includes this feature as well. As discussed above, the Stinson reference does not teach such a feature and in fact teaches away from such a feature. Accordingly, withdrawal of the above-noted rejection as applied to claim 45 and 53 is also solicited.

Additional rejections under 35 USC § 103 are set forth beginning at pages 10 and 12 of the most recent Office Action, respectively. In each of these cases, as above, the Stinson references relied upon with respect to its teachings of a radiopaque marker. However, as noted above, independent claim 45 and thus dependent claims 46-53 all incorporate the radiopaque marker in a manner distinct from the teachings of the Stinson reference, and in fact in a manner from which the Stinson reference teaches away. Withdrawal of these additional rejections under 35 USC § 103 is thus solicited.

For the foregoing reasons it is believed that this application is in condition for allowance containing claims 36-60. Action to that end is solicited.

The Examiner is asked to please telephone the undersigned attorney should there be any rejection that the Examiner believes could be maintained against the application as presently amended. Applicants' attorney would like the opportunity to telephonically interview the Examiner to try and arrive at acceptable claim language to proceed to allowance of the application.

Respectfully submitted,

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